



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: August 13, 2019
MOAHR Docket No.: 19-006464
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 7, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's February 12, 2019 application for Child Development and Care (CDC) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of CDC benefits.
2. In September 2018, the Department issued to Petitioner a Redetermination to gather relevant information regarding Petitioner's ongoing eligibility for CDC benefits. Respondent returned the completed Redetermination form to the Department via fax in a timely manner. That submission was not properly processed.
3. On October 24, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her CDC case was closing, effective November 11, 2018

for failing to return to the Department the Redetermination that she in fact timely submitted.

4. Over the following months, Petitioner repeatedly attempted to contact her Department worker, but the worker never called her back or communicated with her in any meaningful way.
5. On [REDACTED] 2019, Petitioner submitted to the Department an application for CDC benefits.
6. As of the date of the hearing, the Department had not processed Petitioner's [REDACTED] 2019 application.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's failure to process her application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner was an ongoing recipient of CDC benefits from the Department until the Department improperly closed her case, effective November 11, 2018, for failing to submit a Redetermination form that Petitioner in fact timely submitted. On [REDACTED] 2019, Petitioner submitted an application for CDC benefits to the Department in the hopes that she could start getting the CDC benefits that she would have been receiving uninterrupted but for the Department's failure to process her timely Redetermination submission. Upon receiving the [REDACTED], 2019 application, however, the Department failed to process it, necessitating Petitioner's [REDACTED], 2019 request for hearing objecting to the Department's inaction.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2018), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

Thus, per the above cited rules and regulations, Petitioner's June 17, 2019 hearing request, while untimely with respect to the October 24, 2018 Notice of Case Action closing Petitioner's CDC benefits case, was timely with respect to the Department's failure to process Petitioner's [REDACTED], 2019 CDC application. On that issue, the Department witness conceded that the Department failed to properly take action to process the application. The Department witness stated that the appropriate action would be to require the Department to process the application and to determine eligibility from the date of application ongoing.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process Petitioner's [REDACTED], 2019 application for CDC benefits.

DECISION AND ORDER

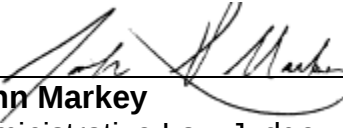
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Petitioner's [REDACTED] 2019 application for CDC benefits;
2. If there are any eligibility-related factors that are unclear, inconsistent, contradictory, or incomplete, follow Department policy in gathering verifications;
3. Determine Petitioner's eligibility for CDC benefits from the date of application ongoing;

4. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issue; and
5. Notify Petitioner in writing of its decisions.

JM/cg


John Markey
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS- Wayne-19-Hearings
L. Brewer-Walraven
BSC4- Hearing Decisions
MOAHR

Petitioner- Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]